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Human rights in the administration of justice

Report of the Secretary-General

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I. INTRODUCTION

1. The General Assembly, at its forty-sixth session, adopted resolution 46/120 of 17 December 1991, entitled "Human rights in the administration of justice", in which, inter alia, it requested the Secretary-General: to continue to assist Member States, at their request, in implementing existing international human rights standards in the administration of justice, in particular under the programme of advisory services of the Centre for Human Rights; to continue to provide all necessary support to United Nations bodies working on the promotion and protection of human rights and on international standard-setting in this field; to ensure the widest possible dissemination of the international instruments and to include such texts in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments; and to continue to coordinate activities in that field, including the various technical advisory services carried out by the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs of the Secretariat, with a view to undertaking joint programmes and strengthening existing mechanisms. The General Assembly also requested the Secretary-General to report at its forty-eighth session on the implementation of that resolution.

II. ADVISORY SERVICES AND TECHNICAL ASSISTANCE

2. The report of the Secretary-General to the Commission on Human Rights at its forty-ninth session on advisory services in the field of human rights 1/ contained a number of items relating to advisory services and technical cooperation in the area of human rights in the administration of justice. Among them were advisory services of experts, fellowships, seminars and training courses provided to several requesting Member States, the direct beneficiaries of which included judges, lawyers, prosecutors, police, prison officials and military officers. In particular, in 1992 the programme provided: fellowships for applicants from 32 countries to attend a training course which included subjects relating to human rights in the administration of justice; translation and information efforts related to international instruments on human rights in the administration of justice for Cambodia and a number of other countries; expert needs assessment regarding, inter alia, human rights in the administration of justice in Benin, Cambodia, Colombia, Mongolia and Sao Tome and Principe; training in human rights and the administration of justice to Albania, Mongolia, Romania, Swaziland and Uruguay; expert advisory services on human rights in the administration of justice (states of emergency) to the Russian Federation; and support for regional activities related to this subject, including for training conducted by the Arab Institute of Human Rights, an African regional seminar in Benin and a regional training course for English-speaking African countries held at San Remo, Italy. Since the publication of that report, a number of other activities supporting human rights in the administration of justice have been carried out by the Centre. They are described below, along with more detailed information on those set out above.

A. Professional training in human rights in the administration of justice

3. The Centre for Human Rights, through its programme of advisory services and technical assistance, has been involved for many years in the training of judges, lawyers, prosecutors, police officers, prison personnel and military officials, in the area of human rights in the administration of justice. A recent review of these activities by the Centre has resulted in a new programme approach. Courses of this type offered by the Centre are now based upon the following elements:

(a) Collegial presentations. The Centre draws from a list of experts which is practical in orientation. Rather than assembling panels composed entirely of professors and theorists, the Centre opts for practitioners in the relevant field, be they lawyers, judges, or police officers. In the experience of the Centre, much more can be accomplished through the collegial approach of police discussing with police, than through a professor-student model of training;

(b) Training the trainers. National participants in the Centre's courses are selected on the understanding that their responsibilities will continue after completion of the training exercises. All are charged with conducting their own training or dissemination efforts after returning to their normal duty stations. In this way, the impact of such courses is multiplied severalfold, as the information imparted is disseminated throughout the institutions concerned;

(c) Pedagogical techniques. Courses developed by the Centre, in each case include a section designed to introduce a variety of effective techniques for the training of adult audiences. In particular, suggestions are to be made for the use of creative, interactive teaching methods, which offer the best hope for securing the active, engaged participation of the programme participants. Recent discussions between the staff of the Centre and a number of non-governmental organizations with extensive training experience have resulted in the identification of the following techniques as especially appropriate and effective in human rights training for adults: working groups, lecture/discussion, case-studies, panel discussion, round-table discussions, brain storming, simulation and role-playing, field trips, practical exercises and visual aids;

(d) Audience-specificity. The mere recitation of vague principles of general applicability offers little hope of affecting the actual behaviour of a given audience. To be effective, training and education efforts must be directly targeted and appropriately addressed to a particular audience, be they police, health care workers, lawyers, students or others. Accordingly, the Centre's teaching activities focus more on the standards directly relevant to, for instance, the daily work of police, and less on the history or structure of United Nations machinery;

(e) Practical approach. According to the report of a recent parliamentary commission investigating violations at one country's police stations, when confronted with evidence of abuses

"the police said that they lacked understanding about interrogation methods and techniques, that they carried out interrogations by outdated methods, and that they did not know how interrogations were carried out in democratic and developed countries. In order to compare their methods and improve them, they wanted to have the chance to do research and make observations on interrogation methods in democratic countries".

Such quotes reveal two important areas of focus, extendable by analogy to audiences other than police trainees. First, offering justifications of any kind for serious violations like torture demonstrates a lack of familiarity with the most fundamental of human rights standards in the administration of justice. There are no legitimate justifications for such activities. Secondly, police (and other groups) in the real world want to know not just what the rules are, but also how to do their job effectively within the confines of those rules. Training efforts which ignore either of these areas will likely be neither credible nor effective. Accordingly, the Centre includes practical information on proven techniques for the performance of the target audience's duties, as derived from the recommendations of experts and literature on the current best practice for the profession in question;

(f) Comprehensive presentation of standards. The courses of the Centre are intended to be thorough in their presentation of the relevant international standards. To this end, relevant instruments and simplified learning tools are translated and distributed to participants;

(g) Teaching to sensitize. The goals of courses developed by the Centre are not limited to the imparting of standards and practical skills, but also include exercises designed to sensitize trainees to their own potential for violative behaviour, however unwitting. For example, well-developed exercises which can have the effect of making trainees aware of notions of gender or racial bias in their own attitudes or behaviour can be quite valuable. Similarly, the special import of particular standards as they apply to women (for example) are not always readily obvious. Trainees should be made to understand that, for example, the term "degrading treatment", as found in the various international instruments, may imply different activities and thresholds when applied to women, as compared to men;

(h) Flexibility of design and application. To be universally useful, training courses must be designed in such a way as to facilitate their flexible use, without imposing a single rigid focus or approach on the trainers. Such courses must be adaptable to the particular cultural, educational, regional and experiential needs and realities of a diverse range of potential audiences within the target group;

(i) Evaluation tools. Training courses include pre- and post-training evaluative exercises, such as testing questionnaires, which serve three crucial purposes. Pre-course questionnaires, when properly utilized, allow a trainer to tailor the course to the particular educational needs of the audience. Post-course questionnaires and evaluation sessions will both allow trainees to gauge what they have learned, and assist in the continuous (crucial) modification and improvement of courses offered by the Centre.

4. This approach to professional training in human rights in the administration of justice is currently undergoing in-field testing by the Centre in its technical cooperation activities in a number of countries, and has been subjected to a series of revisions based upon those experiences.

Training course for Romanian law enforcement officials

5. A training course on human rights in the administration of criminal justice was held at Bucharest from 19 to 23 October 1992. The course was attended by some 70 Romanian police, prison, and military officials, drawn from duty stations around the country. A panel of international experts, assembled both for their familiarity with international human rights standards and their practical experience in the field of law enforcement, led discussions with participants on a variety of topics. A participatory working group model of instruction was utilized to ensure the active engagement of the participants.

6. Topics covered in the course included the sources, systems and standards for international human rights in the administration of criminal justice; the duties and guiding principles of ethical police conduct; the use of force in law enforcement; the crime of torture; effective methods of legal and ethical interviewing; human rights during arrest and interviewing; the legal status and rights of the accused; standards for search and seizure; pre-trial detention and the role of the police; the administration of justice in situations of internal conflict, states of emergency and civil disorder; legal crowd control measures; minimum standards for facilities for prisoners and detainees; prison health issues, including AIDS and the HIV virus; special categories of prisoners and detainees, including juveniles, women and remand prisoners; prison administration, discipline, punishment and recourse procedures; juvenile offenders and the police, prison and military officials; crowd control and the use of force; the rights of women in the administration of justice; protection and redress for victims; community policing and non-custodial measures; protection of refugees in criminal justice; non-discrimination and minority relations; investigating violations; effective human rights training; and the establishment and administration of democratic policing.

Seminar for Romanian judges and lawyers

7. From 30 November to 4 December 1992, the Centre held a seminar on human rights in the administration of justice for 40 Romanian judges, lawyers and procurators in Bucharest. Participants from around the country took part in discussions and working sessions lead by a panel of international and domestic experts on a range of subjects related to the human rights implications of the daily work of legal professionals. Topics covered included international sources, systems and standards for human rights; the independence of judges and lawyers; human rights in criminal investigations; the rights of the accused during arrest and detention; the elements of a fair trial; standards for the protection of prisoners; non-custodial measures; the administration of juvenile justice; equality and non-discrimination in the justice system; and the rights of women in the administration of justice.

Training course for professors of Romanian police academies

8. From 1 to 5 March 1993, the Centre for Human Rights, in cooperation with the Romanian Institute for Human Rights, conducted a training course on human rights in the administration of justice for professors of Romanian police academies. The course was conducted on the premises of the Institute in Bucharest and was attended by 50 participants, drawn principally from the Central Police Academy of Romania and the Romanian Military Training Academy, which also trains law enforcement personnel.

9. The purposes of the course were to familiarize participants with the international standards for human rights in the administration of criminal justice, to facilitate examination of humane and effective techniques for the performance of law enforcement functions in a democratic society, and to prepare participants to include this information in their own training activities.

10. The course sessions were led by a panel of international resource persons selected for their expertise in human rights, law enforcement, and professional training. Topics addressed in the course included: international sources, systems and standards; legal status and rights of the accused during arrest and pre-trial detention; human rights during police investigations; protection and redress for victims; treatment of juvenile offenders; policing demonstrations, internal disturbances and states of emergency; the rights of women in the criminal justice system; and non-discrimination and community policing. Ample time was allowed for group discussions and a participatory problem-solving (working group) method of instruction was employed.

Training course for Albanian law enforcement officials

11. From 2 to 6 November 1992, the Centre organized an intensive training course in Tirana on human rights in the administration of criminal justice for 60 Albanian police, prison and military officials. A panel of experts composed of authorities in the field of human rights and police officials and trainers from a number of democratic countries discussed with the participants both the international standards for human rights in the administration of justice, and practical techniques for the performance of law enforcement functions in a manner respectful of human rights. A participatory working group model of instruction was used to ensure the active involvement of the trainees.

12. Topics covered in the course included sources, systems and standards for international human rights in the administration of criminal justice; the duties and guiding principles of ethical police conduct; the use of force in law enforcement; the crime of torture; effective methods of legal and ethical interviewing; human rights during arrest and interviewing; the legal status and rights of the accused; standards for search and seizure; pre-trial detention and the role of the police; the administration of justice in situations of internal conflict, states of emergency and civil disorder; legal crowd control measures; minimum standards for facilities for prisoners and detainees; prison health issues, including AIDS and the HIV virus; special categories of prisoners and detainees, including juveniles, women and remand prisoners; prison administration, discipline, punishment and recourse procedures; juvenile offenders and police, prison and military officials; crowd control and the use of force; the rights of women in the administration of justice; protection and

redress for victims; community policing and non-custodial measures; protection of refugees in criminal justice; non-discrimination and minority relations; investigating violations; effective human rights training; and the establishment and administration of democratic policing.

Seminar for Albanian judges and lawyers

13. The Centre conducted a seminar in Tirana from 12 to 15 April 1993 for 60 practising judges and lawyers on the subject of human rights in the administration of justice. A panel of six international experts, primarily themselves practising judges, were assembled on the basis of their practical experience, their knowledge of human rights and their ability to address issues related to the administration of justice from both a theoretical and a practical perspective, in keeping with the Centre's approach to professional training, as described above. Participants were provided with a number of Albanian-language versions of the major United Nations instruments related to the administration of justice and attended sessions on international sources, systems and standards for human rights in the administration of justice; human rights during criminal investigations, arrest, and pre-trial detention; the independence of judges and lawyers; the elements of a fair trial; juvenile justice; protection of the rights of women in the administration of justice; standards for the treatment of prisoners; non-custodial measures; and non-discrimination and equal justice.

Lesotho seminar

14. A seminar conducted by the Centre for Human Rights in Lesotho, from 19 to 22 January 1993, in preparation for that country's elections of 1993, addressed a wide range of issues relating to human rights and democratic transition. Among them were issues of human rights in the administration of justice, including the role of police, military officials and the judiciary. After a three-day meeting in Maseru, follow-up seminars were held in the heavily populated districts of Mafetena, Mohale's Hoek, Leribe and Butha-Buthe.

Regional human rights seminar in Benin

15. The Centre for Human Rights provided financial support for a regional seminar for non-governmental organizations held from 2 to 7 September 1992 in Cotonou, with a particular focus on the campaign against torture. Two hundred participants drawn from 20 African countries and from Asia, Europe and Latin America examined all aspects of this severe violation of human rights in the administration of justice.

Training course for English-speaking African countries

16. In cooperation with the International Institute of Humanitarian Law, the Centre for Human Rights organized a training course on the implementation of international standards for human rights in the administration of justice for officials from English-speaking African countries from 9 to 13 March 1992. The course was held at San Remo, Italy, and focused both on international standards and machinery and on domestic application. Standards and mechanisms discussed included those of the United Nations and those of the African system, including the African Charter on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights.

Training of magistrates, police and prison officials in Uruguay

17. Under a technical cooperation agreement with the Government of Uruguay, the Centre for Human Rights provided support for the training of magistrates, police and prison officials in human rights standards for the administration of justice throughout 1992. The Centre is currently conducting a joint review with the Government to gauge the progress of these initiatives.

Human rights training of Polish associate judges

18. Among the activities approved and financed under a technical cooperation agreement between the Centre for Human Rights and the Government of Poland was a series of training courses in 1992 for associate judges in Poland, including training in human rights in the administration of justice.

Meetings of experts for the elaboration of manuals on human rights in the administration of justice

19. In an effort to consolidate lessons learned in testing its new approach to training for human rights in the administration of justice, the Centre has made arrangements for the organization of two expert meetings on the subject. The first, on human rights training for police, was held from 4 to 6 August 1993 at Geneva, with expert participation from African, Asian, Latin American and European countries, as well as from the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch and non-governmental organizations active in the field. The second, on training in human rights in the administration of justice for judges, lawyers and prosecutors, is planned for December 1993.

20. The publication of a manual to be produced from each meeting is scheduled for 1994. The purposes of these two manuals will be multifold. They will be intended to provide valuable practical support to the training activities which are a principal aspect of the United Nations human rights programme. Through their use, the impact of the Centre's training exercises can be enhanced, their approach and quality standardized and their efficiency maximized. The Centre believes that the production of such materials will obviate the need for the repeated ad hoc preparation of course materials for courses offered by the Centre. At the same time, they will be intended to facilitate an approach designed to "train the trainers", thus allowing for the broadest possible dissemination of the principles to be taught, with the minimum necessary resource expenditure. Wide distribution of the manuals, independent of training activities offered by the Centre, will also be possible, as the manuals themselves will include instruction on pedagogical techniques and the organization of effective courses.

B. Human rights fellowship programme

21. The United Nations human rights fellowship programme, administered annually by the Centre for Human Rights pursuant to General Assembly resolution 926 (X), has continued its particular focus on human rights in the administration of justice. In 1992, as in the past, participants with responsibilities relating either to the administration of justice or to the domestic implementation of international human rights instruments, were drawn from a broad geographical base, with 12 fellows from Africa, 6 from Asia, 7 from the Americas, 3 from Eastern Europe and 4 from Western Europe. In 1992, the Centre expanded the programme to place selected fellows at the Crime Prevention and Criminal Justice Branch.

C. Advisory services for the administration of justice

22. The Centre for Human Rights continued to provide advisory services of experts to assist States, at their request, in the domestic implementation of international standards for human rights in the administration of justice. Advice offered under the programme is derived from the standards themselves, from the comparative practice of other democratic jurisdictions, and from the analysis of expert consultants and specialized staff of the Centre.

Advisory services to the Russian Federation

23. The Centre for Human Rights, at the request of the Russian Federation, organized a field mission to Moscow for Mr. Leandro Despouy, Special Rapporteur of the Subcommission on human rights and states of emergency, from 1 to 4 September 1992. The Special Rapporteur provided advice to the Russian authorities on human rights under states of emergency, including the impact of such emergencies on the administration of justice. The importance of ensuring that national legislation conforms to international conventions was emphasized.

Advisory services to Romania

24. In the context of its comprehensive country programme of technical cooperation with Romania, the Centre aided the Romanian authorities throughout 1992 and 1993 by providing comparative legal texts sought by the Government to assist them in the process of legislative reform. In relation to the administration of justice, the Centre collected the organic laws of a number of democratic jurisdictions regarding the establishment and functioning of the "avocat du peuple" and the Superior Council of the Judiciary, and forwarded them to the Government for consideration.

Advisory services to the Republic of Belarus

25. In July and August 1993, the Centre for Human Rights, at the request of the Government of Belarus, provided expert advisory services to assist in drafting a criminal code and a code of criminal procedure, to assure their conformity with international standards for human rights in the administration of justice. A detailed report, intended to assist in the drafting process, contains the observations of the expert, the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch.

D. Assessment of needs for the administration of justice

26. In the context of its new approach to technical assistance (see report of the Secretary-General on advisory services in the field of human rights, E/CN.4/1993/61), the Centre for Human Rights responds to requests for assistance by conducting comprehensive needs assessments, in order to determine pressing areas for technical cooperation in the field of human rights. Without exception, the Centre's needs assessment missions, and the reports that follow them, give particular attention to institutional needs for the proper administration of justice. In each case, needs relating to the judiciary, the police, the prison system, lawyers and prosecutors are addressed. Recent examples have included various levels of needs assessments in Guatemala (September 1992); Benin (October-November 1992); Sao Tome and Principe (September 1992); Cambodia (to explore means of strengthening cooperation with the United Nations Transitional Authority in Cambodia (UNTAC), as well as possible future activities of the Centre, in October 1992); Mongolia (October 1992); Albania (November 1992); Colombia (December 1992); Namibia (December 1992); Uruguay (December 1992); and Malawi (August-September 1993).

III. ACTIVITIES OF UNITED NATIONS BODIES

27. The Centre for Human Rights continued to provide all necessary support to United Nations bodies working on the promotion and protection of human rights and on international standard-setting in the field, particularly to the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities. Recent relevant developments in regard to human rights in the administration of justice are consolidated and summarized below.

A. Commission on Human Rights

28. At its forty-eighth session, the Commission on Human Rights, in its resolution 1992/31 of 28 February 1992, guided by General Assembly resolution 46/120, reaffirmed the importance of full and effective implementation of United Nations standards in this field; called on Member States to provide effective mechanisms and adequate resources to ensure their more effective implementation; recognized the role of non-governmental organizations in promoting these standards; called upon its subsidiary bodies to give special attention to these matters, in particular with regard to unacknowledged detention of persons, and to provide specific recommendations and proposals for advisory services; stressed the desirability of providing States, at their request, with assistance in this field, in particular under United Nations programmes of advisory services and technical assistance; requested the Subcommission on Prevention of Discrimination and Protection of Minorities to continue its practice of creating a sessional working group on detention to formulate concrete proposals regarding human rights in the administration of justice, and to make proposals to the Secretary-General regarding his reports pursuant to Subcommission resolution 7 (XXVII) on the human rights of persons subjected to any form of detention or imprisonment; invited the Commission on Crime Prevention and Criminal Justice to explore, at its first session, ways and means of cooperating with the human rights programme in this field; and decided to consider the question further at

its forty-ninth session under the agenda item entitled "Question of human rights of all persons subjected to any form of detention or imprisonment".

29. At its forty-ninth session, in its resolution 1993/32 of 5 March 1993, the Commission on Human Rights, inter alia, invited the international community to respond favourably to requests from African and other developing countries for assistance in this area; commended those developed countries that had provided financial assistance to the United Nations programme of advisory services and technical cooperation in the field of human rights, and appealed to them to consider increasing their assistance; and urged the Secretary-General to consider favourably applications for assistance made by African Member States and other developing countries regarding the administration of justice at the national level within the framework of the United Nations programme of advisory services and technical cooperation in the field of human rights.

30. The Commission addressed itself to the issue of human rights in the administration of justice in at least 15 additional resolutions during its forty-ninth session. In its resolution 1993/33 of 5 March 1993, welcoming the report of the Secretary-General on human rights and forensic science (E/CN.4/1993/20), recalling the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, and considering the proposed model autopsy protocol contained in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, the Commission, inter alia, invited States to take measures to introduce into their rules and practices the international standards contained in the Principles and requested the Secretary-General to identify forensic experts to assist with advisory services and thematic and country mechanisms. Resolutions and decisions were also adopted on the question of arbitrary detention; torture and other cruel, inhuman or degrading treatment or punishment; human rights and states of emergency; the impunity of perpetrators of violations of human rights; independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers; application of international standards concerning the human rights of detained juveniles; and the right to a fair trial. 2/

31. In its resolution 1993/34 of 5 March 1993, the Commission, inter alia, took note of the report of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 3/ and requested the working group to continue its work and the Secretary-General to invite Governments, the chairmen of the human rights treaty bodies, the Special Rapporteur on the question of torture and the intergovernmental and non-governmental organizations concerned to submit their observations to the working group.

32. On the question of enforced or involuntary disappearances, the Commission adopted resolution 1993/35 of 5 March 1993 at its forty-ninth session, in which, having expressed its deep concern over the persistence of the practice of disappearances in various parts of the world, it expressed its appreciation to the Working Group on Enforced or Involuntary Disappearances for submitting its report, 4/ noted with concern the failure of some Governments to cooperate with the Working Group, or to act on the recommendations concerning them made by the Working Group; and requested the Working Group to continue its task.

33. Also at its forty-ninth session, the Commission adopted resolution 1993/36 of 5 March 1993, on the question of arbitrary detention. Having considered the report of the Working Group on Arbitrary Detention, 5/ as well as the revised report by Mr. Louis Joinet on the practice of administrative detention, 6/ the Commission, inter alia, requested the Working Group to continue to gather information on possible arbitrary detentions; called upon Governments to cooperate with the Working Group; encouraged Governments to consider inviting the Working Group to their countries for the purpose, inter alia, of making recommendations for advisory services and technical assistance; and encouraged States to take appropriate measures and ensure that national legislation was in conformity with relevant international instruments.

34. In its resolution 1993/37 of 5 March 1993 on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Commission took note of the annual report of the Secretary-General on the subject, 7/ as well as of the outcome of the first session of the open-ended working group of the Commission on the elaboration of a draft optional protocol to the Convention. Seriously concerned about the alarming number of cases of torture and other cruel, inhuman or degrading treatment or punishment which continued to be reported from various parts of the world, the Commission encouraged States parties to notify the Secretary-General as soon as possible of their acceptance of the amendments to articles 17 and 18 of the Convention; stressed the importance of strict adherence by States parties to their obligations regarding the financing of the Committee against Torture, thus enabling it to carry out its work; and urged all States to become parties to the Convention as a matter of priority.

35. Also on the subject of torture, the Commission adopted resolution 1993/38 of 5 March 1993, in which it appealed for contributions to the United Nations Voluntary Fund for Victims of Torture. In addition, it adopted resolution 1993/40, of the same date, in which it commended the Special Rapporteur on torture on his report 8/ and stressed the recommendations of the Special Rapporteur concerning, inter alia: the importance of instituting a system of periodic visits by independent experts to places of detention; the active role of the judiciary in protecting detainees; the dangers of incommunicado detention; the importance of access to a lawyer for detainees; the importance of the right to challenge one's detention in court; the need for strict measures against medical professionals who play a role in torture; the importance of limiting interrogations to official centres and with careful recording and humane methods (including a prohibition on hooding or blindfolding of detainees); the advisability of establishing independent national complaints procedures; and the importance of severely punishing persons responsible for torture. The Commission encouraged the Special Rapporteur to make appropriate recommendations for advisory services to assist national authorities in combating torture and urged the Secretary-General to make qualified experts available for these purposes.

36. Further addressing the subject of human rights in the administration of justice, and expressly referring to General Assembly resolution 46/120, the Commission adopted resolution 1993/41 of 5 March 1993, in which it reaffirmed the importance of the full implementation of all United Nations standards on human rights in the administration of justice; reiterated its call upon all Member States to spare no effort to ensure more effective implementation of

those standards; recognized the important role that non-governmental organizations could play in that area; called upon its subsidiary bodies to give special attention to the effective protection of human rights in the administration of justice; stressed the desirability of providing States with advisory services and technical assistance in the field of the administration of justice; requested the Subcommission to continue its practice of creating a sessional working group on detention; and invited the Commission on Crime Prevention and Criminal Justice to explore ways of cooperating with the human rights programme in this field.

37. In its resolution 1993/43 of 5 March 1993 on the question of the impunity of perpetrators of violations of human rights, the Commission inter alia took note with satisfaction of the working paper 9/ prepared on the subject by Mr. El Hadji Guissé and Mr. Louis Joinet and endorsed the decision of the Subcommission to request the authors of the working paper to prepare a study on the matter, in particular to determine the scope of the phenomenon of impunity and to propose measures to combat the practice.

38. In its resolution 1993/44 of 5 March 1993, the Commission welcomed the recommendations made in the report of the Special Rapporteur of the Subcommission on the independence of the judiciary and the protection of practising lawyers, 10/ and endorsed the decision of the Subcommission to entrust the Special Rapporteur with the preparation of a follow-up report on strengthening the independence of the judiciary and the protection of practising lawyers.

39. In regard to extrajudicial, summary or arbitrary executions, the Commission, in its resolution 1993/71 of 10 March 1993, strongly condemned the large number of such incidents; welcomed the appointment of Mr. Bacre Waly Ndiaye as the new Special Rapporteur for extrajudicial, summary or arbitrary executions; took note of the report of the Special Rapporteur; 11/ requested the Special Rapporteur to continue to fulfil the mandate entrusted to him; requested that the next report pay particular attention to the subject as it regarded children and participants in demonstrations and other peaceful manifestations; urged Governments to undertake measures to lower the level of violence and loss of life during manifestations and disturbances, and appealed to them to ensure humane and dignified treatment of persons deprived of their liberty; encouraged all relevant actors to support human rights training programmes for law enforcement officers and government officials; and urged Governments to cooperate with the Special Rapporteur in his work; requested the Special Rapporteur to enhance his dialogue with Governments by following up on communications dispatched to Governments transmitting allegations of extrajudicial, summary or arbitrary executions and allegations of imminent or threatened executions, as well as by following up on recommendations made by the Special Rapporteur in reports of on-site visits to particular countries.

40. The Commission responded to the final report of the Special Rapporteur on the human rights of detained juveniles 12/ and to the addendum to that report containing a note by the Secretary-General on the subject, in its resolution 1993/80 of 10 March 1993. In that resolution, the Commission thanked the Special Rapporteur and welcomed the proposal of the Secretary-General to organize an expert meeting on the subject in 1994 under the auspices of the

Centre for Human Rights, the United Nations Children's Fund, and the Crime Prevention and Criminal Justice Branch.

41. Also during its forty-ninth session, the Commission decided to endorse the requests of the Subcommission to the Special Rapporteurs on the right to a fair trial to continue their study (decision 1993/106); to the Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms to continue his study (decision 1993/107); and to Ms. Claire Palley to prepare, without financial implications, an outline of the possible utility, scope and structure of a study on the issue of privatization of prisons (decision 1993/108).

B. Subcommission on Prevention of Discrimination and Protection of Minorities

42. The Subcommission on Prevention of Discrimination and Protection of Minorities has addressed itself to a wide range of issues relating to human rights in the administration of justice. In particular, at its forty-fourth session, the Subcommission referred draft resolutions to the Commission on Human Rights on the question of human rights and states of emergency; the question of the impunity of perpetrators of violations of human rights; and the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers. Draft decisions referred to the Commission included those on the right to a fair trial; the application of international standards concerning the human rights of detained juveniles; the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms; and the study of the issue of the privatization of prisons. 13/

43. The Subcommission also adopted a number of resolutions during that session relevant to human rights in the administration of justice. After having examined the first three reports of its Special Rapporteurs on the right to a fair trial, 14/ the Subcommission adopted resolution 1992/21 of 27 August 1992, in which inter alia it requested a continuation of the series of reports, to include recommendations for strengthening the implementation of the right to a fair trial in the light of interpretations by international bodies and contemporary national practices, as well as suggestions on how the right might be further protected, notably by making the right, or certain aspects of it, non-derogable, and by incorporating basic fair trial guarantees into international standards.

44. The Subcommission also adopted resolution 1992/22 of 27 August 1992, on the question of human rights and states of emergency. In that resolution, the Subcommission inter alia expressed its appreciation to its Special Rapporteur for his fifth annual report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency. The Subcommission also recognized the fundamental importance of effective national legislation enabling emergency situations to be dealt with in conformity with international norms. It requested the Secretary-General, under the programme of advisory services in the field of human rights, to assist States in this area, through the Special Rapporteur. The Special Rapporteur was invited to continue his mandate, and, in particular, to continue his work on the draft guidelines for the development of

national legislation on states of emergency and, in particular, to examine the question of non-derogable rights.

45. In its resolution 1992/23 of 27 August 1992, the Subcommission addressed the question of impunity of perpetrators of violations of human rights. Convinced that the increasingly widespread practice of impunity for perpetrators of violations of human rights in various regions of the world is a fundamental obstacle to the observance of human rights, and having considered guidelines proposed in a working paper submitted by two of its members, 9/ the Subcommission decided to request the authors of the working paper to draft a study on the issue in order, in particular, to determine the scale of the phenomenon of impunity and to propose measures to combat that practice.

46. On the issue of the application of international standards concerning the human rights of detained juveniles, the Subcommission adopted resolution 1992/25 of 27 August 1992, in which, noting with satisfaction the report of its Special Rapporteur on the subject 12/ and expressing concern that, because of the great vulnerability of juveniles to abuse, neglect and injustice and the profound and indelible impact of such traumatic experiences on their developing personalities, violations of the human rights of detained juveniles had serious consequences for the juveniles concerned and for society, it requested the Secretary-General to provide necessary assistance for the organization of a meeting of experts on the application of international standards concerning the human rights of detained juveniles. That meeting is currently planned for 1994, and will include representatives of the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch, the United Nations Children's Fund (UNICEF), the Committee on the Rights of the Child and the Working Group on Contemporary Forms of Slavery.

47. In its resolution 1992/38 of 28 August 1992, the Subcommission addressed the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers. The Subcommission inter alia took note with appreciation of the latest report of the Special Rapporteur on the subject; called upon Governments to strengthen the independence of the judiciary and the protection of practising lawyers, as fundamental elements in the protection of human rights; and decided to entrust the Special Rapporteur with the preparation of another report, bringing to the attention of the Subcommission information on practices and measures which have served to strengthen or weaken the independence of the judiciary and the protection of practising lawyers in accordance with United Nations standards and to propose specific recommendations regarding the independence of the judiciary and the protection of practising lawyers to be taken into account in the advisory services and technical assistance programmes and projects of the United Nations.

48. At the same session, the Subcommission decided to establish a sessional working group on detention (decision 1992/101). The working group was composed of the following members of the Subcommission: Mr. Boutkevitch, Mr. Despouy, Mr. Guissé, Mr. Hakim and Mr. Joinet. The Subcommission also decided, taking into account an earlier working paper submitted by Mr. Miguel Alfonso Martínez 15/ and a working paper submitted by the Secretary-General 16/ to request Mrs. Claire Palley to prepare an outline of the possible utility, scope and structure of a special study on the privatization of prisons, and the Secretary-General to provide Mrs. Palley with all possible

assistance for the completion of her task (decision 1992/107). The outline was submitted to the Working Group on Detention and to the Subcommission at its forty-fifth session. 17/

IV. DISSEMINATION OF RELEVANT INTERNATIONAL INSTRUMENTS

49. Efforts have continued to ensure the widest possible dissemination of the texts of the international instruments relevant to human rights in the administration of justice. These instruments, which are listed in the annex to the present report, have been incorporated in the new edition of the United Nations publication Human Rights: A Compilation of International Instruments. They are used in the Centre's training and advisory service activities, and relevant instruments have been translated and disseminated on an ad hoc basis in the context of agreements for technical cooperation. In addition, for activities conducted in the English, French or Spanish languages, the Centre has provided as a basic resource document the "Consolidated list of the Secretary-General of provisions in the various United Nations standards relating to human rights in the administration of justice". 18/

50. In each of the training courses and seminars described in section II above, relevant international instruments were translated (where necessary), and distributed to participants. In addition, specific human rights information projects have been undertaken by the Centre in a number of countries and have included many of the instruments set out in the annex to this report. In this way, many of the relevant instruments have been distributed in one form or another in, among other countries, Albania, Benin, Cambodia, Lesotho, Mongolia, Romania and Uruguay.

V. COORDINATION OF ACTIVITIES

51. The Centre for Human Rights has enjoyed considerable cooperation with the Centre for Social Development and Humanitarian Affairs in its activities relating to human rights in the administration of justice. Close cooperation between the Advisory Services and Technical Assistance Branch of the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs has resulted in the participation of staff of the Crime Prevention and Criminal Justice Branch in many of the activities conducted by the Centre for Human Rights. For example, the development of the approach to training of the Centre for Human Rights, the courses and seminars offered in various countries, advisory services offered by the Centre for Human Rights, and the development of training manuals for human rights in the administration of justice have all benefited from the substantive participation of the Crime Prevention and Criminal Justice Branch.

52. There has also been cooperation in the area of standard-setting. For example, the Crime Prevention and Criminal Justice Branch has provided the Centre for Human Rights with valuable information with respect to the work of the human rights bodies on the draft optional protocol to the Convention against Torture, on the independence of the judiciary, on impunity and on a number of related issues.

53. Also of note in this regard is Subcommission resolution 1992/38 of 28 August 1992, in which it entrusted Mr. Louis Joinet, its Special Rapporteur on the independence of the judiciary, with the task of examining ways and means of enhancing cooperation and avoiding overlap and duplication in the work of the Commission on Crime Prevention and Criminal Justice and that of the Subcommission. The proposals of the Special Rapporteur were met with appreciation by both the Commission on Crime Prevention and Criminal Justice and the Crime Prevention and Criminal Justice Branch. The recommendations have become a subject for joint examination and further elaboration with a view to enhancing cooperation in this area, as proposed by the Subcommission and endorsed by the Commission on Human Rights in its resolution 1993/44.

54. In order to further cooperation and the exchange of information within the Organization, the second session of the Commission on Crime Prevention and Criminal Justice was attended by the Chairman of the Subcommission at its forty-fourth session, by the Special Rapporteur on torture and by a representative of the Centre for Human Rights. Similarly, the latest sessions of the Commission on Human Rights and its Subcommission were attended by representatives of the Crime Prevention and Criminal Justice Branch.

55. The human rights fellowship programme, administered by the Centre for Human Rights under the programme of advisory services and technical assistance (see sect. II above), has also benefited from the close cooperation of the Crime Prevention and Criminal Justice Branch. In 1992, the fellowship programme was expanded to include the placement of selected fellows at the Crime Prevention and Criminal Justice Branch.

56. The Centre for Human Rights also organizes regular inter-agency meetings, joint working groups and ad hoc consultations with a view to avoiding duplication, exchanging information, and improving efficiency in the use of limited resources. The Crime Prevention and Criminal Justice Branch is regularly involved in these activities. The fourth inter-agency meeting on human rights, organized by the Centre for Human Rights on 25 June 1992 at Geneva, for example, was attended by representatives of the Crime Prevention and Criminal Justice Branch. Finally, liais ns have been created in both Centres to assure coordinated monitoring of developments relating to human rights in the administration of justice.

VI. CONCLUSIONS

57. Human rights in the administration of justice continues to be a primary focus of all aspects of the United Nations human rights programme, including technical assistance, standard-setting and dissemination of information. Effective coordination of activities undertaken in this field, within the United Nations system and with non-governmental organizations, intergovernmental organizations and Governments is crucial to the continued success of these efforts. The numerous existing United Nations standards relative to human rights in the administration of justice provide a strong substantive framework for protection, and thus should remain the focus of sustained and effective dissemination and technical assistance efforts aimed at their implementation at the national level, in particular through the programme of advisory services and technical assistance of the Centre for Human Rights.

58. One of the main requirements for effective national protection of human rights in the administration of justice is the existence of adequate national laws and institutions. Therefore, coordination of efforts should continue so that United Nations advisory services and technical assistance may effectively provide for the services of experts for, inter alia, the revision of national legislation in compliance with relevant international instruments. Similar efforts should continue for encouraging the establishment of national institutions and for strengthening existing national institutions.

Notes

1/ E/CN.4/1993/61.

2/ See E/CN.4/1993/122.

3/ E/CN.4/1993/28 and Corr.1.

4/ E/CN.4/1993/25 and Add.1.

5/ E/CN.4/1993/24.

6/ E/CN.4/Sub.2/1990/29 and Add.1.

7/ E/CN.4/1993/21.

8/ E/CN.4/1993/26.

9/ E/CN.4/Sub.2/1992/18.

10/ E/CN.4/Sub.2/1992/25 and Add.1.

11/ E/CN.4/1993/46.

12/ E/CN.4/Sub.2/1992/20.

13/ See E/CN.4/1993/2-E/CN.4/Sub.2/1992/58.

14/ See E/CN.4/Sub.2/1990/34, E/CN.4/Sub.2/1991/29 and E/CN.4/Sub.2/1992/24 and Add.1-3.

15/ E/CN.4/Sub.2/1991/56.

16/ E/CN.4/Sub.2/1992/21.

17/ E/CN.4/Sub.2/1993/21.

18/ E/CN.4/Sub.2/1991/26.

ANNEX

List of instruments relevant to human rights in the administration of justice

The following instruments, in addition to the principal human rights covenants and conventions, have been included in the latest edition of Human Rights: A Compilation of International Instruments and serve as the basis for technical assistance and information activities carried out by the Centre for Human Rights in the area of human rights in the administration of justice.

1. Standard Minimum Rules for the Treatment of Prisoners

2. Basic Principles for the Treatment of Prisoners

3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

4. United Nations Rules for the Protection of Juveniles Deprived of their Liberty

5. Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

7. Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment

8. Safeguards guaranteeing protection of the rights of those facing the death penalty

9. Code of Conduct for Law Enforcement Officials

10. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

11. Basic Principles on the Role of Lawyers

12. Guidelines on the Role of Prosecutors

13. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

14. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

15. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

16. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

17. Basic Principles on the Independence of the Judiciary

18. Model Treaty on the Transfer of Proceedings in Criminal Matters

19. Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

20. Declaration on the Protection of All Persons from Enforced Disappearance

21. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions

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